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Secrets. II-27—100,000—21-5-48.

Public (Emp. Br.) **(1948) Department.**

M3 **SERIES.**

P.A/C

G.O. No. 3076

Dated 8. 12. 48

[Despatch Abstract.]

Public Services - Declaration of eligibility by domicile for Government service in India of persons who migrate from Pakistan to India and State subjects - Papers recorded.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department,	Date.
Go	1959	Pub (Elec)	27.9.40				

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Ms	694	Public (Sec)	4 3.47				

No. 43/10/47/ESTS.
GOVERNMENT OF INDIA,
Ministry of Home Affairs.

New Delhi, the 2nd January 1948.

OFFICE MEMORANDUM.

Sub:- Eligibility by domicile for Government service in India of persons who migrate from Pakistan to India.

In the Home Department Resolution No. 16/10/47/Ests(..) dated the 21st August 1947, the policy of the Government of India relating to recruitment to the Central services under Indian Dominion in respect of domicile qualifications for eligibility for such appointment was enunciated, and the following decisions were announced:-

(a) A candidate in order to be eligible for appointment to the Central Services under the Indian Dominion should be:-

(i) a national of the Indian Dominion by birth or by domicile; or

(ii) a person of Indian descent, or a ruler or a citizen of an Indian State, or a citizen of the Pakistan Dominion or of any other territory adjacent to India, in whose favour a declaration of eligibility has been issued by the Government of the Dominion of India.

(b) A declaration of eligibility will be given by Government after considering each individual case on merits.

(c) With regard to subjects of Indian States, the criterion in determining elibility will be inter alia whether the State concerned has elected to join the Indian Dominion.

2. As a result of conditions created by the mass movement of population from Pakistan areas to India in recent months, the question whether the normal rules for the determination of domicile should be relaxed for determining elibility for appointment to the Central Services under the Indian Dominion of the following categories of candidates has been considered:-

(a) candidates who were domiciled in Pakistan areas but have moved to the Indian Dominion.

(b) Persons who continue to reside in the Pakistan areas but desire to enter the service of the Indian Dominion.

3. In regard to candidates in category (a), the Government of India consider that persons who have migrated or migrate before 31st March 1948 from Pakistan areas with the intention of permanently settling down in India should, by virtue of their action, be regarded as having never lost their Indian domicile not-withstanding the fact that the areas in which they were originally resident now form part of the dominion of Pakistan. They should be treated as persons domiciled in India and no declaration of elibility for appointment to the Central Services under the Indian Dominion in respect of such persons is necessary.

4. In regard to candidates in category (b), whether they are resident in Pakistan areas including States which have acceded to Pakistan, or have come out temporarily into India, a declaration of eligibility for appointment to

Government service in the Indian Dominion will be necessary before they are appointed. Such a declaration of eligibility will be issued by the Home Ministry of the Government of India after considering the application of each individual candidate on merits in consultation with the Ministry of External Affairs and Commonwealth Relations and the Ministries under which employment is sought.

5. With regard to subjects of Indian States, the position is that under the provisions of sub-section (1) of section 262 of the Government of India Act, 1935, as adapted, the Ruler or a subject of an Acceding State is eligible to hold any civil office under the Crown in India in connection with affairs of the Dominion and the Governor-General may declare that the Ruler or the subjects, or any named subject, of a specified Indian State which is not an acceding State, or the natives or any named native, of a specified tribal area or territory adjacent to India, shall be eligible to hold any such office. Therefore, no declaration of eligibility is necessary for a Ruler or a subject of an Acceding State; but a declaration is necessary in respect of a Ruler or a subject of A State which has not acceded to the Dominion of India. In the case of a subjects of non-Acceding States, applications for declarations of eligibility accompanied by certificates showing the date and place of birth and the State to which the candidate belongs should be forwarded to the Home Ministry through the Government of the State concerned. A declaration of eligibility will be issued by the Home Ministry after considering the applications on individual merits in consultation with the Ministry of States and the Ministry under which employment is sought by such State subject. This will not affect the existing procedure for the verification of the character and antecedents of employees for appointment to services in India.

P.V.R. Rao,
Joint Secretary to the Government of India.

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GOVERNMENT OF MADRAS.
Public (General-B) Department.

Letter/Reference No. 2435/47-4.

From

Sri. K. Ramunni Menon, I.C.S.,
Chief Secretary to Government.)

To

The Joint Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.

Dated, Fort St. George, the 16th July 1948.

Sir,

Sub:- Eligibility by domicile for Government service in India of persons who migrate from Pakistan to India.

Ref:- Your Memorandum No. 43/10/47/Ests. dated 2.1.1948 and letter No. RH.524/(2) from Ministry of Relief and Rehabilitation dated 6.2.1948.

I am directed to invite your attention to the difference in the language employed in sub-section (1) of section 262 of the Government of India Act which deals with

offices under the control of the Central Government and that employed in sub-section (2) of the same section which deals with offices under the Provincial Government. Whereas sub-section (1) distinguishes between (a) the Ruler and subjects of an acceding State and (b) the Ruler and subjects of other Indian States and requires a declaration from the Governor-General only in the case of the Ruler and subjects of a State which has not acceded, subjection (2) draws no such distinction and requires a declaration from the Governor in respect of the Ruler and subjects of all Indian States. It is therefore presumed that in respect of offices under the Provincial Government, a declaration from the Governor is necessary in the case of the Ruler and subjects of every State, whether the State has acceded or not. I am to enquire whether this presumption is correct. An early reply is requested.

Yours faithfully,

K. Ramunni Menon,
Chief Secretary to Government.

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No. 43/13/48/Apptts.
GOVERNMENT OF INDIA,
Ministry of Home Affairs.

From

C.B. Gulati, Esquire, M.A.,
Under Secretary to the Government of India.

To

The Chief Secretary to the Government of Madras.

New Delhi, the 22nd October 194

Sub:- Eligibility by domicile for Government service of persons who have migrated from Pakistan or who are subjects of Indian States.

Sir,

With reference to your letter No. 2435/47-4 dated the 17th July 1948 on the subject mentioned above, I am directed to say that the presumption made by the Provincial Government therein that, in respect of offices under a Provincial Government, a declaration of eligiblity from the Governor is necessary in the case of the Ruler and subjects of every State, whether the State has acceded to the Indian Dominion or not, is correct. The difference between the language employed in sub-sections (1) and (2) of section 262 of the Government of India Act, 1935 is deliberate.

Yours faithfully,

C.B. Gulati,
Under Secretary to the Government of India.

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/True copy/

Office Assistant,
Madras Record Office.

.s. 7.10.

Please see the letter from the Government of India at page 17 c.f. They have stated definitely that in respect of offices under the Provincial Government a declaration of eligibility from the Governor is necessary in the case of Ruler and subjects of every State, whether the State has acceded to the Indian Dominion or not. In the circumstances, the existing procedure will have to continue. The papers may be recorded after perusal by Hon'ble Premier.

x x x
24.11.48.

K.R.R.
25.4.

Hon'ble Premier.

x x x

For Hon'ble Premier.

The papers may now be recorded into a G.O. for facility of future reference.

x x x
7.12.1948.

G.O. Ms. No. 3076 dated 8.12.1948.

Public Services - Declaration of eligibility - Eligibility by domicile for Government service in India of persons who migrate from Pakistan to India and State subjects - Papers recorded.

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/True copy/

Office Assistant,
Madras Record Office.

k.y.s. 8.10.